

Secret

MARIJUANA LEGALIZATION

BACKGROUND

The proposal is to:

- ensure that marijuana is kept out of the hands of children, and the profits out of the hands of criminals, and to legalize, regulate, and restrict access to marijuana;
- remove marijuana consumption and incidental possession from the criminal law, and create new, stronger laws to more severely punish those who provide it to minors, those who operate a motor vehicle while under its influence, and those who sell it outside of the new regulatory framework;
- create a federal-provincial-territorial task force—and with input from experts in public health, substance abuse, and law enforcement—design a new system of strict marijuana sales and distribution, with appropriate federal and provincial excise taxes applied.

The *Controlled Drugs and Substances Act* (CDSA) and its regulations provide the legal framework for dealing with all drugs in Canada, including cannabis (marihuana). The CDSA creates a summary conviction offence in regard to possession of 30 grams or less of cannabis (marihuana) or 1 gram or less of cannabis resin (“a small amount of cannabis”) that is punishable by up to six months imprisonment and/or a fine of up to \$1,000. The possession of more than these amounts of these products is a hybrid offence punishable by imprisonment for up to five years less a day if prosecuted by indictment.

Federal responsibilities

Justice Canada is the lead on the National Anti-Drug Strategy. The Department is also the lead on the criminal law aspects of drug usage, in the same way as it leads on amendments to the *Criminal Code*. As Minister of Justice you will be responsible for developing options with respect to the criminal aspects of cannabis (marihuana) legalization. In developing these options, departmental officials will work closely with officials at Health Canada, Public Safety Canada, and Foreign Affairs, Trade and Development Canada. Options for moving forward will also depend on the system of sales and distribution that is developed by the task force. The Minister of Health will lead on the creation of the task force and on its mandate and timelines.

The Minister of Health is responsible for the CDSA generally. Health Canada is responsible for regulating controlled drugs and substances, including their use by licensed dealers and producers (e.g., for medical marijuana).

The RCMP is the federal lead for criminal investigations into organized crime groups and networks that pose the greatest risk to the safety and security of Canadians, including those involved in the production and distribution of illicit marijuana.

The Public Prosecution Service of Canada (PPSC) is responsible for the prosecution of drug offences. In Quebec and New Brunswick, both PPSC and the province prosecute drug offences. However, any province may conduct the prosecution where the drug offence is less serious than other offences being charged (e.g., impaired driving causing death and possession of marihuana).

s.21(1)(b)

Canada Border Services Agency is responsible for managing the access of people and goods, including the prohibition of importing contraband such as drugs like cannabis, to and from Canada.

Public Safety Canada exercises a broad leadership role over departments and agencies responsible for public safety and security, including strengthening drug control policies and working with law enforcement to tackle the production and distribution of illicit marijuana.

Medical marijuana and court challenges

Charter challenges have continued in criminal and civil contexts since the introduction of the *Medical Marihuana Access Regulations* (MMAR). For example, in June 2015, a Supreme Court of Canada decision in *R. v. Smith* overturned the prohibition on possession of non-dried forms of medical marihuana. In response, Health Canada issued section 56 exemptions under the CDSA, allowing licensed producers to produce and sell cannabis oil and fresh marihuana buds and leaves in addition to dried marihuana.

With the introduction of the *Marihuana for Medical Purposes Regulations* (MMPR) in June 2013 and the repeal of the MMAR on March 31, 2014, over 300 cases were filed, arguing, primarily, that the elimination of home cultivation of marihuana for personal, medical purposes is contrary to the Charter. *Allard et al. v. Her Majesty the Queen in Right of Canada* is considered to be the lead case for these challenges (the majority of similar cases are stayed until *Allard* is decided). The plaintiffs obtained an interlocutory injunction order on March 21, 2014, which allows those who were previously authorized to possess and to produce medical marihuana, and who fit within the time period set out in the injunction order, to continue to possess and to produce under the terms of their previous MMAR licences until a decision in *Allard* is rendered. A decision, expected in fall 2015, could have significant implications on the regime (e.g., if return to home cultivation is permitted in addition to commercial production).

s.21(1)(a)

s.21(1)(b)

s.23



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Note 25
First 100 Days

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Question Period Note

IMPAIRED DRIVING

ISSUE:

How and when will the Government address the electoral commitment to increase sentences for drug impaired driving (in the context of legalizing marijuana)?

PROPOSED RESPONSE:

- **Our Government is committed to addressing the significant impact impaired driving has on the safety of our roads and highways.**
- **The *Criminal Code* contains a comprehensive regime to address impaired driving, including drug impaired driving.**
- **Our Government is committed to ensure that those who drive while impaired by drugs will be subject to stronger laws and we are examining ways to improve the ability to detect and prosecute drug impaired driving.**

If asked about former Bill C-73, the Dangerous and Impaired Driving Act introduced by the previous government:

- **I am aware of the previous government's Bill to address impaired driving. We agree that impaired driving is a significant concern to all Canadians and are committed to ensuring the safety of our roads and highways.**

BACKGROUND:

The Government's platform committed to stronger laws on drug impaired driving in the context of legalizing marijuana.

Impaired driving – general

Impaired driving continues to kill and injure more Canadians than any other crime. In 2013, Canadian police reported 78,391 incidents of impaired driving, an 8% decline from 85,149 incidents in 2012. In 2013, 97% of impaired driving incidents involved alcohol and 3% involved drugs.

In 2011, impaired driving was the most common offence of cases completed in adult criminal court (48,000 or 12%) and had the greatest proportion of guilty verdicts (84%), with 8% resulting in imprisonment. These cases took more court time and they took longer to complete than other cases: 24% took one year to complete compared to 17% for other offences.

Drug impaired driving has been an offence since 1925, but proving the offence has always been a challenge. In 2008, the *Tackling Violent Crime Act* provided police with improved investigative tools to target drug impaired drivers. These include standard field sobriety tests at the roadside, followed by drug recognition evaluation at the police station. This program has had a positive impact, but many challenges remain (e.g., the high turnover rate for specially trained drug recognition officers).

Stakeholders

Key stakeholders include Mothers Against Drunk Driving (MADD) and the Canadian Association of Chiefs of Police (CACP). Both groups have called for significant reform to the impaired driving regime of the *Criminal Code*, including the addition of road side oral fluid screening and legal limits for drugs as are currently in force in Australia, the United Kingdom, and many American states.

MADD has also called for Random Breath Testing (RBT) for alcohol which has reduced impaired driving in Australia, New Zealand, and the European Union. Under RBT, the driver must provide a breath sample in an approved screening device at road side without the officer needing to suspect alcohol in the driver's body). In a press release issued on October 22, 2015, MADD supported the measures proposed in former Bill C-73, the *Dangerous and Impaired Driving Act*, that would have limited technical defences and mandatory breath testing of all drivers involved in a crash. Bill C-73, was introduced on June 16, 2015, and died on the Order Paper with the dissolution of Parliament for the federal election.

Parliamentary involvement on impaired driving

In June 2009, the House of Commons Standing Committee on Justice and Human Rights studied the issue of impaired driving. In its report, *Ending Impaired Driving: A Common Approach*, the Committee made 10 recommendations, many of which required legislative reform. Following that Report, the Government engaged in public consultations on the recommendations as well as consultations with federal/provincial/territorial (FPT) ministers responsible for Justice and Public Safety.

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Question Period Note

MARIJUANA LEGALIZATION

ISSUE:

The Liberal electoral platform undertook to "legalize, regulate and restrict access to marijuana" and to establish a federal/provincial/territorial task force to design a strict sales and distribution system.

PROPOSED RESPONSE:

- **Our Government has committed to legalize and regulate marijuana, reflecting the view of a majority of Canadians who believe that marijuana use should no longer be subject to criminal penalties.**
- **By introducing a framework around the production and distribution of marijuana, and by ensure that strong sanctions exist for those who sell outside this framework, we will help keep it out of the hands of children, and the profits out of the hands of criminals.**
- **I am working with the ministers of Health and Public Safety and Emergency Preparedness to design a new system of strict marijuana production and distribution, with appropriate health safeguards and federal and provincial taxes applied.**
- **We are committed to reviewing evidence and best practices, and hearing from Canadians as we develop our approach.**

If asked about the RCMP laying charges against employees and owners or marijuana dispensaries or cases where charges have been laid for marijuana offences:

- **Charging people for criminal offences is the role of law enforcement agencies, including the RCMP. At this time, marijuana is still a Schedule II drug under the *Controlled Drugs and Substances Act* and, unless otherwise regulated for production and distribution, is subject to the offences under that legislation.**

If asked about the respective roles of the ministers of Justice, Health and Public Safety and Emergency Preparedness in dealing with the legalization of marijuana:

- **Together with my colleagues the Minister of Health and the Minister of Public Safety and Emergency Preparedness, we are working to meet this Government's commitment to legalize, regulate, and restrict marijuana.**

BACKGROUND:

The Liberal Party 2015 platform specifically proposed:

- to remove marijuana consumption and incidental possession from the criminal law (*Controlled Drugs and Substances Act* (CDSA));
- to create new, stronger laws to punish more severely those who provide it to minors, those who operate a motor vehicle while under its influence, and those who sell it outside of the new regulatory framework; and
- to create a federal/provincial/territorial task force to design a new system of strict marijuana sales and distribution.

The ministers of Health, Justice and Public Safety and Emergency Preparedness will be leading the development of this initiative.

The CDSA currently makes it a summary conviction offence to possess 30 grams or less of cannabis marijuana or 1 gram or less of cannabis resin ("a small amount of cannabis") which is punishable by up to six months imprisonment and/or a fine of up to \$1,000. The possession of more than these amounts of these products is a hybrid offence punishable by imprisonment for up to five years less a day if prosecuted by indictment.

The CDSA also imposes a number of mandatory minimum penalties for serious drug offences. None of these penalties apply to the offence of possession of small quantities of marijuana.

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Note pour la période de questions

LÉGALISATION DE LA MARIJUANA

SUJET :

Dans leur plate-forme électorale, les Libéraux se sont engagés à « légaliser et réglementer la marijuana et à en limiter l'accès » et à créer un groupe de travail fédéral-provincial-territorial qui mettra en place un réseau strict de vente et de distribution de marijuana.

RÉPONSE SUGGÉRÉE :

- **Notre gouvernement s'est engagé à légaliser et à réglementer la marijuana, engagement qui reflète le point de vue d'une majorité des Canadiennes et des Canadiens qui estiment que l'utilisation de la marijuana ne devrait plus faire l'objet de sanctions criminelles.**
- **En établissant un cadre entourant la production et la distribution de marijuana et en veillant à ce que des peines sévères soient infligées à ceux qui en vendront à l'extérieur de ce cadre, nous empêcherons la marijuana de tomber entre les mains des enfants et les criminels d'en tirer profit.**
- **Je collabore actuellement avec la ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile en vue de concevoir un nouveau système strict de production et de distribution de marijuana, qui comprendra des mesures de protection pour la santé et qui sera assujetti aux taxes fédérales et provinciales.**
- **Dans le cadre de l'élaboration de notre approche, nous sommes déterminés à examiner les données et les pratiques exemplaires et à entendre les points de vue des Canadiennes et des Canadiens.**

Si une question est posée sur le fait que la GRC dépose des accusations contre des employés ou des propriétaires de dispensaires de marijuana ou sur des accusations portées pour des infractions relatives à la marijuana :

- **C'est le rôle des forces de l'ordre, notamment de la GRC, de porter des accusations relatives à des infractions criminelles. À l'heure actuelle, la marijuana est toujours une drogue inscrite à l'Annexe II de la *Loi réglementant certaines drogues et autres substances*, et, sauf dispositions législatives contraires relatives à sa production et distribution, elle reste**

assujettie aux infractions établies sous le régime de cette loi.

Si une question est posée sur les rôles respectifs de la ministre de la Justice, de la ministre de la Santé et du ministre de la Sécurité publique et de la Protection civile dans le dossier de la légalisation de la marijuana :

- **De concert avec mes collègues, la ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile, nous travaillons à mettre en œuvre l'engagement que le gouvernement a pris de légaliser et de réglementer la marijuana et d'en limiter l'accès.**

CONTEXTE :

La Plate-forme de 2015 du Parti libéral proposait plus particulièrement ce qui suit :

- Retirer la consommation et la possession de marijuana du *Code criminel* (*Loi réglementant certaines drogues et autres substances*).
- Adopter des mesures législatives plus sévères pour punir les personnes qui en fournissent aux mineurs, les personnes qui conduisent un véhicule automobile sous l'effet de la drogue et les personnes qui en vendent à l'extérieur du nouveau cadre réglementaire.
- Créer un groupe de travail fédéral-provincial-territorial pour mettre en place un nouveau réseau strict de vente et de distribution de marijuana.

La ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile piloteront cette initiative.

En vertu de la *Loi réglementant certaines drogues et autres substances*, le fait de posséder 30 grammes ou moins de cannabis (marijuana) ou 1 gramme de résine de cannabis (« une petite quantité de cannabis ») constitue une infraction punissable sur déclaration de culpabilité par procédure sommaire d'une peine maximale d'emprisonnement de six mois ou d'une amende maximale de 1 000 \$. La possession d'une plus grande quantité de ces substances constitue une infraction mixte punissable d'une peine maximale de cinq ans de prison moins une journée, si l'infraction était considérée comme un acte criminel (auteurs poursuivis par mise en accusation).

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s.21(1)(a)



Department of Justice
Canada

Ministère de la Justice
Canada

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NUMERO DU DOSSIER/FILE #: 2015-012752

COTE DE SÉCURITÉ/SECURITY CLASSIFICATION: SECRET

TITRE/TITLE: Drug Impaired Driving (Marijuana)

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- This note provides an overview of the issues relating to drug-impaired driving [REDACTED] with an emphasis on marijuana.
 - There is currently no “legal limit” for drugs as there is for alcohol.
 - The legalization of marijuana could lead to a significant increase in drug-impaired driving.
 - There have been calls from MADD and police for “legal limits” on impairing drugs.
- [REDACTED]

Soumis par (secteur)/Submitted by (Sector): Policy Sector

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Revue dans l'ULM par/Edited in the MLU by: _____

Soumis au CM/Submitted to MO:



Secret
FOR INFORMATION

2015-012752

MEMORANDUM FOR THE MINISTER

Drug Impaired Driving (Marijuana)

ISSUE

This note provides an overview of the issues relating to drug-impaired driving with an emphasis on marijuana.

BACKGROUND

Impaired driving continues to kill and injure more Canadians than any other crime. In 2013, 97% of impaired driving incidents involved alcohol and 3% involved drugs. However, experts believe that drug-impaired driving is under-reported as it is more difficult for police to detect impairment by a drug. Cannabis is the most common impairing drug found in drivers. In a 2012 survey of drivers in British Columbia, 10.1% tested positive for drugs. Of these, 43.6% tested positive for cannabis and 33.0% tested positive for cocaine.

The *Criminal Code* prohibits driving while one's ability is impaired by alcohol or drugs or a combination of these. It is a separate offence to drive with a Blood Alcohol Concentration in excess of 80 mg of alcohol in 100 ml of blood (over 80). There is no similar "legal limit" for drugs. Police are authorized to demand breath samples, blood samples (sometimes) and compliance with physical tests. It is also an offence to refuse to comply with a valid demand. (Annex 1 sets out the relevant offences, penalties, investigative powers and procedures.)

Police can lay a charge of drug-impaired driving when there are signs of impairment and evidence that they are caused by a drug. The indicia of drug-impairment vary depending on the drug and, without training, drug-impairment can be hard to detect. The *Criminal Code* authorizes the police to demand that a driver perform standard field sobriety tests (SFST) at the roadside. If the person fails the 3-step SFST, the officer could then demand that an evaluation be conducted by an officer who is trained in the 12-step Drug Recognition and Evaluation (DRE) to determine whether the person is impaired by a drug and, if so, which class of drug is involved. DRE evidence is admissible at trial to prove the offence but SFST evidence is not. The DRE program has had a positive impact but challenges remain, in terms of training, retention and litigation.

CONSIDERATIONS

The legalization of marijuana could lead to a significant increase in the number of drug-impaired drivers. There is limited data available from two jurisdictions. For example, in Colorado, in the year following marijuana legalization, there was a 32% increase in marijuana-related traffic

deaths. In Washington, which legalized cannabis in 2012, the Washington Traffic Safety Commission reported in 2014, that 84.3% of drivers who tested positive for cannabinoids were positive for THC; this number almost doubled from the 44.4% in 2010. Of the 75 drivers involved in fatal crashes who tested positive for THC, 38% exceeded the statutory threshold limit of 5 ng/ml. The Washington Traffic Safety Commission noted, as well, that this data was insufficient to determine the link between THC and crash risk. While the DRE provisions could be strengthened, this response, alone, would be insufficient to respond to an increase in marijuana impaired driving. This is because there is an insufficient number of trained officers to conduct SFST and DRE evaluations, particularly in rural areas.

MADD Canada and the Canadian Association of Chiefs of Police have called for “legal limits” on impairing drugs in the body and for mandatory roadside oral fluid drug screening tests, as has been done in many jurisdictions. This approach would be akin to the legislation for the over 80 offence and roadside breath testing to screen for alcohol. (Annex 2 lists those jurisdictions that are known to have a legal limit on THC, the impairing ingredient of cannabis, in the blood.)

The Drugs and Driving Committee (DDC) of the Canadian Society of Forensic Science (CSFS) provides scientific advice to the federal government on this issue. It has been reviewing the scientific literature on legal limits for various impairing drugs, including THC, heroin, and cocaine. The DDC has also considered the reliability of the technology for oral fluid drug screening at the roadside. DDC is seeking funding to test oral fluid drug screeners in the field to determine their suitability for use by police in Canadian conditions to detect THC and some other drugs.

s.21(1)(a)

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ANNEXES [2]

- Annex 1: Impaired Driving – Overview of *Criminal Code* Provisions
- Annex 2: US States and Other Countries with legal limits of THC

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January 29, 2016

ANNEX 1

IMPAIRED DRIVING – OVERVIEW OF *CRIMINAL CODE* PROVISIONS

OFFENCES: The basic offences are:

- Driving while impaired by alcohol or a drug or a combination of alcohol or a drug
- Driving with a Blood Alcohol Concentration (BAC) over 80 mg/100 mL of blood
- Refusal without a reasonable excuse to comply with a demand

There are separate offences for each of these offences where they cause bodily harm or death. A person cannot be convicted of both impaired and over 80 for the same incident.

PENALTIES:

Mandatory minimum penalties (MMPs) whether prosecuted summarily or on indictment:

- 1st offence – \$1,000
- 2nd offence – 30 days imprisonment
- 3rd offence – 120 days imprisonment

Section 255(3.3) makes these mandatory minimums also apply to offences causing bodily harm or death.

Maximum penalties:

- Basic offence – 18 months on summary conviction and 5 years on indictment
- Offences causing bodily harm – 14 years
- Offences causing death – life imprisonment

Section 255(5) allows a court to grant a conditional discharge for the offender to obtain curative treatment. This section was enacted in 1985 and only applies where proclaimed in force on the request of a province. It is not in force in ON, PQ, BC and NL.

A BAC over 160 is an aggravating factor for sentencing.

Prohibitions from driving:

Basic offences

- 1st offence – 1 to 3 years (eligible for ignition interlock after 3 months)
- 2nd offence – 2 to 5 years (eligible for ignition interlock after 6 months)
- 3rd offence – 3 years to life (eligible for ignition interlock after 12 months).

If the person is convicted of causing a death, there is no minimum and the maximum is life.

If the person is convicted of causing bodily harm, there is no minimum and the maximum is 10 years.

It is an offence to drive while prohibited except if the person is enrolled in and complying with an ignition interlock program.

Investigating over 80 driving: A police officer who suspects that a driver has alcohol in his body can demand a roadside breath test on an approved screening device (ASD) or that the person perform three

standardized field sobriety tests (SFST). The person must comply and is not entitled to consult counsel. Since the person has not consulted counsel, the results of these tests cannot be used to prove the offence.

If the ASD indicates WARN, the police can impose provincial sanctions as the person is over 50 but under 80. If the ASD indicates FAIL or, in the opinion of the officer, the person has failed SFST, the police can demand that the person submit to a breath test at the station on an approved instrument (AI). If the person is incapable of providing a breath sample, the police can demand a blood sample.

The person must be given the opportunity to consult counsel before the AI breath test or the taking of a sample of blood.

It is not necessary that the officer use an ASD or SFST to justify a demand for an AI test. Indicia of alcohol-impairment may be sufficient to lay the impaired driving charge.

Investigating drug-impaired driving: There are no legal limits on the concentration of any drug in the blood and there is no roadside screening for drugs. A police officer who suspects that a driver has a drug in the body can only demand that the person perform SFST.

Where the person fails SFST, the officer can demand that the person submit to an evaluation by an officer trained in Drug Recognition and Evaluation (DRE) at the station.

DRE is a 12 step program that use physical indicia (blood pressure, muscle tone, reaction to light etc.) and performance on divided attention tests to determine whether the person is impaired by a drug and, if so, which class of drug is causing the impairment.

The person must be given the right to counsel before submitting to the DRE examination.

Proving the over 80 offence: The BAC produced by an AI is proven if the AI was in proper working order and was operated properly.

The Code requires that there be two breath tests at least 15 minutes apart and the lower of the two results is used.

The offence, however, is over 80 at the time of driving not at the time of testing. BAC at time of testing is deemed to be BAC at time of driving if the first breath test was performed within two hours of the driving. If the first test is beyond two hours, a toxicologist must calculate what the BAC would have been at time of driving.

Proving the drug-impaired driving offence:

The offence is proven on the basis of the evidence of impairment shown at the time of driving, together with evidence of a drug that caused the observed impairment e.g., the officer smelled marijuana and the driver admitted using it.

Where a DRE has performed an evaluation, his or her opinion on impairment is admissible but it is only one piece of evidence to be weighed by the judge.

ANNEX 2

Unlike a blood alcohol concentration that can be correlated to the consumption of “standard drinks”, there is no “standard marijuana joint,” for example, to which THC or its metabolites in the blood or urine can be correlated. It cannot be said that “x” joints will get a particular person to “y” nanograms of THC.

US States with a legal limit on THC (7 States)

Colorado: 5 ng/ml of THC in blood

Iowa: 50 ng/ml of carboxy THC metabolites in urine

Montana: 5 ng/ml of THC in blood.

Nevada: 2 ng/ml of THC in blood or 10 ng/ml in urine

5 ng/ml of marijuana metabolite in blood or 15 ng/ml in urine

Ohio: Marijuana 10 ng/ml in urine; 2 ng/ml in blood

Marijuana metabolite 35 ng/ml in urine; 50 ng/ml in blood

Marijuana metabolite in combination with alcohol or other drugs -15 ng/ml in urine;
5 ng/ml in blood

Pennsylvania: 1 ng/ml of THC or its metabolites in blood is a violation of the administrative, highway traffic limit but is not enough to convict for offenses requiring impairment. In such a proceeding the state must show actual impairment.

Washington: THC in the blood above 5 ng/ml

US States with Zero Tolerance – presence in the blood is an offence (12 States)

Arizona, Delaware, Georgia, Illinois, Indiana, Iowa, Michigan, Oklahoma, Rhode Island, South Dakota, Utah, Wisconsin

US States with Legislative Defences for Medical Marijuana

States with THC Legal Limits: Ohio

States with Zero tolerance: Arizona, Delaware, Indiana, Michigan, Utah, Wisconsin

Rates of THC-impaired driving before and after legalization

According to the Colorado Department of Transport, in 2011 (the year before marijuana was legalized) 8.9% of drivers involved in fatal crashes tested positive for cannabis. In 2012 (the year marijuana was legalized) 5.7% of drivers involved in fatal crashes testing positive for cannabis.

In 2014 (when retail businesses started operating), 12.1% of drivers in fatal crashes tested positive.

According to the Rocky Mountain High Intensity Drug Trafficking Area, toxicology reports with positive marijuana results of active THC for primarily driving under the influence have increased 45% in one year.

According to the Washington Traffic Safety Commission, from the last half of 2013 (when recreational retail outlets opened) to the first half of 2015 the percentage of suspected impaired drivers testing positive for THC increased from 22.2% to 32.7%.

Some Other Countries with THC legal limits

Australia: All Australian states have a zero tolerance approach with random roadside testing.

United Kingdom: 2 ng/ml of THC in blood

Norway: Tiered penalties for 1.3 ng/ml, 3 ng/ml and 9 mg/ml of THC in blood

Ireland:¹ 1 ng/ml of THC or 5 ng/ml of cannabis metabolite in blood within three hours of driving.

¹ Legislation introduced in January 2016 but not passed.

Question Period Note

MARIJUANA LEGALIZATION

ISSUE:

The Liberal electoral platform undertook to "legalize, regulate and restrict access to marijuana" and to establish a federal/provincial/territorial task force to design a strict sales and distribution system.

PROPOSED RESPONSE:

- **Our Government has committed to legalize, strictly regulate, and restrict access to marijuana in a careful and orderly way. And we will take the time that is necessary to get this right.**
- **Until Parliament has enacted new legislation and new rules are in place to ensure that marijuana is carefully regulated, current laws remain in force and should be obeyed.**
- **We respect the role that law enforcement and agencies have in charging people for criminal offences, and at this time, marijuana is still a Schedule II drug under the *Controlled Drugs and Substances Act* and, unless otherwise regulated for production and distribution, is subject to the offences under that regulation.**
- **Our government, led by the Department of Justice and supported by the departments of Health and Public Safety and Emergency Preparedness, will design a system of strict regulation, with strong sanctions for those who sell outside this framework, to ensure that we will keep it out of the hands of children, and the profits out of the hands of criminals.**
- **We are committed to reviewing evidence and best practices, and hearing from Canadians as we develop our approach.**

If asked about drug impaired driving (in the context of legalizing marijuana):

- **Our Government is committed to ensure that those who drive while impaired by drugs, including marijuana, will be subject to stronger laws and we are examining ways to improve the ability to detect and prosecute drug impaired driving.**

BACKGROUND:

The Liberal Party 2015 platform specifically proposed:

- to remove marijuana consumption and incidental possession from the criminal law (*Controlled Drugs and Substances Act* (CDSA));
- to create new, stronger laws to punish more severely those who provide it to minors, those who operate a motor vehicle while under its influence, and those who sell it outside of the new regulatory framework; and
- to create a federal/provincial/territorial task force to design a new system of strict marijuana sales and distribution.

The ministers of Health, Justice and Public Safety and Emergency Preparedness will be leading the development of this initiative.

The CDSA currently makes it a summary conviction offence to possess 30 grams or less of cannabis marijuana or 1 gram or less of cannabis resin ("a small amount of cannabis") which is punishable by up to six months imprisonment and/or a fine of up to \$1,000. The possession of more than these amounts of these products is a hybrid offence punishable by imprisonment for up to five years less a day if prosecuted by indictment.

The CDSA also imposes a number of mandatory minimum penalties for serious drug offences. None of these penalties apply to the offence of possession of small quantities of marijuana.

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Note pour la période de questions

LÉGALISATION DE LA MARIJUANA

SUJET :

Dans leur plate-forme électorale, les Libéraux se sont engagés à « légaliser et réglementer la marijuana et à en limiter l'accès » et à créer un groupe de travail fédéral-provincial-territorial qui mettra en place un réseau strict de vente et de distribution de marijuana.

RÉPONSE SUGGÉRÉE :

- Notre gouvernement s'est engagé à légaliser, à réglementer strictement et à restreindre l'accès à la marijuana de façon soigneuse et ordonnée. Et nous prendrons le temps qu'il faut pour le faire comme il faut.
- Jusqu'à ce que le Parlement ait adopté de nouvelles dispositions législatives et jusqu'à ce que de nouvelles règles soient en place pour veiller à ce que la marijuana soit soigneusement réglementée, les dispositions actuelles demeurent en vigueur et devraient être respectées.
- Nous respectons le rôle que les forces de l'ordre et les organismes d'application de la loi ont en matière d'inculpation. À l'heure actuelle, la marijuana est toujours une drogue inscrite à l'Annexe II de la *Loi réglementant certaines drogues et autres substances*, et, à moins que sa production et sa distribution en soient autrement réglementées, elle reste assujettie aux infractions prévues dans cette loi.
- Notre gouvernement, dirigé par le ministère de la Justice et appuyé par les ministères de la Santé et de la Sécurité publique et de la Protection civile, va concevoir un système de réglementation stricte, assorti de peines sévères pour ceux qui vendent de la marijuana en dehors de ce cadre, afin de garantir que nous empêcherons la marijuana de tomber entre les mains des enfants et les criminels d'en tirer profit.
- Dans le cadre de l'élaboration de notre approche, nous sommes déterminés à examiner les données et les pratiques exemplaires et à entendre les points de vue des Canadiennes et des Canadiens.

Si une question est posée concernant la conduite avec les facultés affaiblies par la drogue (dans le contexte de la légalisation de la marijuana) :

- **Notre gouvernement est déterminé à garantir que les personnes qui conduisent lorsque leur capacité de conduire est affaiblie par l'effet d'une drogue, y compris la marijuana, seront assujetties à des dispositions législatives plus sévères; nous examinons actuellement des façons d'améliorer la capacité de détecter et de poursuivre les personnes dont la capacité de conduire est affaiblie par l'effet d'une drogue.**

CONTEXTE :

La Plate-forme de 2015 du Parti libéral proposait plus particulièrement ce qui suit :

- Retirer la consommation et la possession de marijuana du *Code criminel* (*Loi réglementant certaines drogues et autres substances*).
- Adopter des mesures législatives plus sévères pour punir les personnes qui en fournissent aux mineurs, les personnes qui conduisent un véhicule automobile sous l'effet de la drogue et les personnes qui en vendent à l'extérieur du nouveau cadre réglementaire.
- Créer un groupe de travail fédéral-provincial-territorial pour mettre en place un nouveau réseau strict de vente et de distribution de marijuana.

La ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile piloteront cette initiative.

En vertu de la *Loi réglementant certaines drogues et autres substances*, le fait de posséder 30 grammes ou moins de cannabis (marijuana) ou 1 gramme de résine de cannabis (« une petite quantité de cannabis ») constitue une infraction punissable sur déclaration de culpabilité par procédure sommaire d'une peine maximale d'emprisonnement de six mois ou d'une amende maximale de 1 000 \$. La possession d'une plus grande quantité de ces substances constitue une infraction mixte punissable d'une peine maximale de cinq ans de prison moins une journée, si l'infraction était considérée comme un acte criminel (auteurs poursuivis par mise en accusation).

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s.21(1)(a)



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Canada

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Canada

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FOR INFORMATION

NUMERO DU DOSSIER/FILE #: 2016-001094

COTE DE SECURITE/SECURITY CLASSIFICATION: Confidential

TITRE/TITLE: Cannabis

SOMMAIRE EXÉCUTIF/EXECUTIVE SUMMARY

- This note provides an overview of issues [REDACTED] in relation to the legalization of cannabis for recreational purposes including:



- a summary of international treatment of cannabis.

Soumis par (secteur)/Submitted by (Sector):

Policy Sector

Responsable dans l'équipe du SM/Lead in the DM Team:

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Soumis au CM/Submitted to MO: February 15, 2016



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s.21(1)(a)

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2016-001094

MEMORANDUM FOR THE MINISTER

Cannabis

ISSUE

This note provides an overview of issues [REDACTED] in relation to cannabis¹ for recreational purposes.



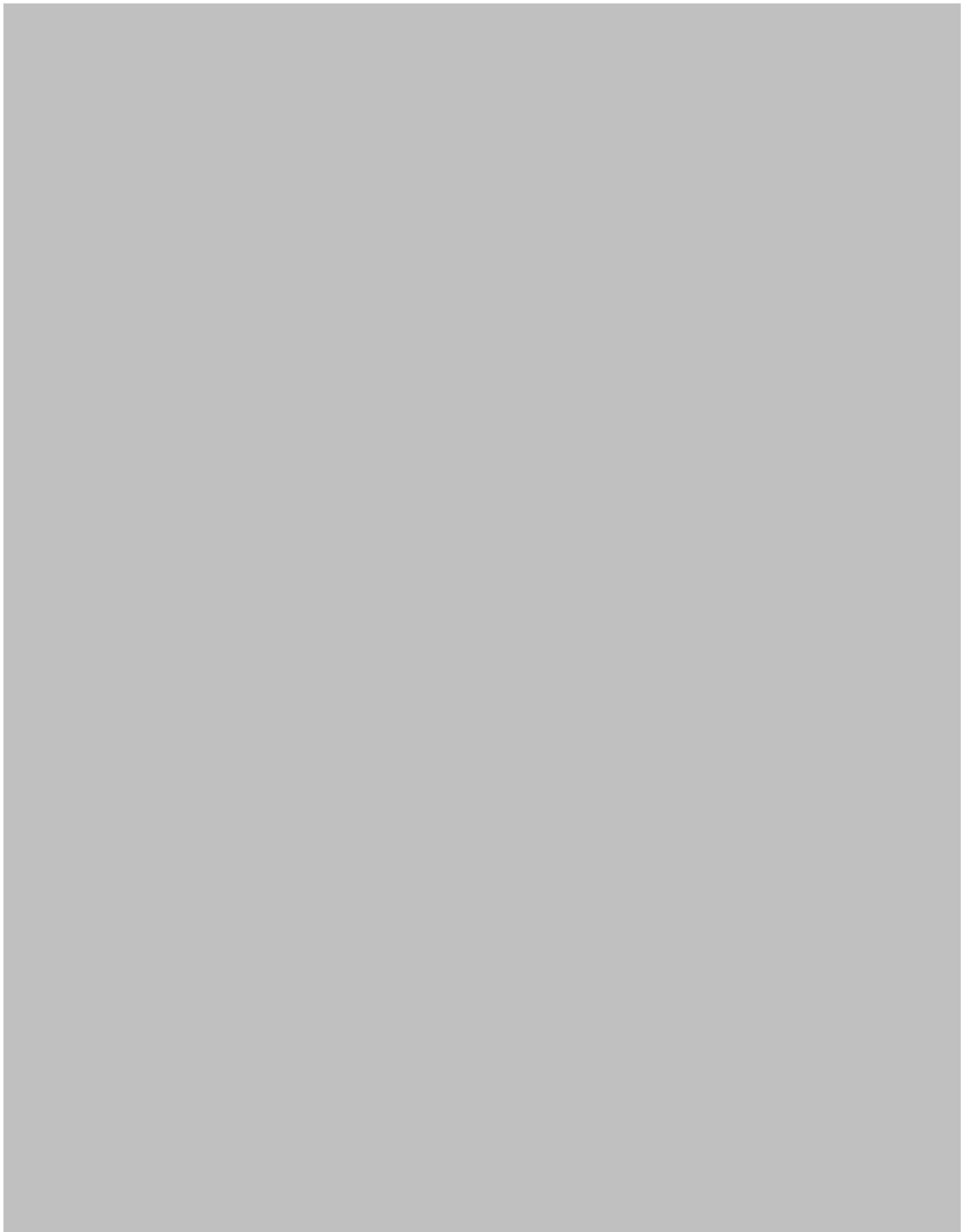
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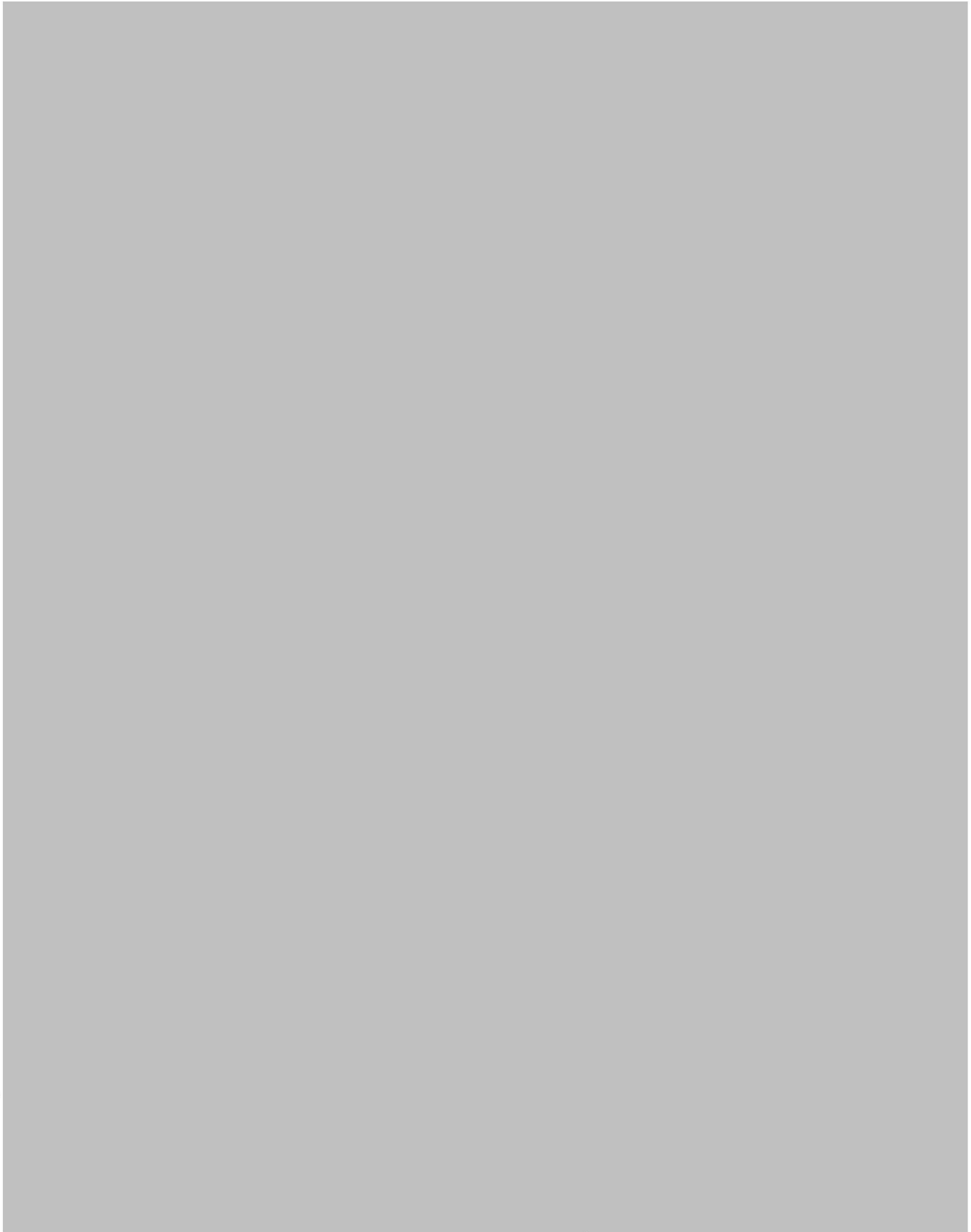
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s.21(1)(b)

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ANNEXES

Annex 1: Medical Marijuana Regimes in the U.S.

Annex 2: Medical Marijuana Regimes in Other Countries

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Medical Marijuana Regimes in the US – 16 States with Licensed Producer Models, Oregon, Washington and Canada

*States with a recreational regime

@States without a licensed producer model

	Canada	Arizona	Colorado*	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon* @	Washington*
Status	<i>Marijuana for Medical Purposes</i>	<i>Arizona Medical Marijuana Act</i>	<i>Medical Use of Marijuana for Persons Suffering from Debilitation Medical Conditions</i>	<i>Public Act 12-55</i>	<i>Delaware Medical Marijuana Act</i>	<i>Compassionate Use of Medical Cannabis Pilot Program Act</i>	<i>Maine Medical Marijuana Act</i>	<i>Senate Bill 923 & House Bill 881</i>	<i>Act for the Humanitarian Medical Use of Marijuana</i>	<i>Chapter 311 -- SFNo 2470</i>	<i>Medical Use of Marijuana</i>	<i>House Bill 573</i>	<i>New Jersey Compassionate Use Medical Marijuana Act</i>	<i>Lynn and Erin Compassionate Use Act</i>	<i>New York Compassionate Use Act</i>	<i>Medical Marijuana Act</i>	<i>Therapeutic Use of Cannabis</i>	<i>Oregon Medical Marijuana Act</i>	<i>Medical Cannabis Law</i>
Year in Effect	June 2014	Nov 2010	June 2001	June 2012	July 2012	Aug 2013	Dec 1999	June 2014	Jan 2013	May 2014	June 2013	June 2013	Oct 2010	July 2007	Jul 2014	March 2006	2004	Dec 1998	Nov 1998
Regulatory Agency	Health Canada	Arizona Department of Health Services	Dept of Revenue, Dept of Public Health and Env, Dept of Agriculture	Dept of Consumer Protection	Delaware Health and Social Services	Dept of Public Health, Dept of Financial & Professional Regulation, Dept of Agriculture, Dept of Revenue	Maine Dept of Health and Human Services	Dept of Health and Mental Hygiene	Dept of Public Health	Dept of Health	Dept of Health and Human Services	Dept of Health and Human Services	New Jersey Dept of Health	New Mexico Dept of Health	New York Dept of Health	Dept of Health	Dept of Public Safety	Oregon Dept of Human Services	Dept of Health
User registry	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No
Require approved medical conditions	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Who can recommend	Medical practitioner & Nurse practitioner	Doctor of medicine, osteopathic medicine, naturopathic physician and homeopathic physician	Certified physician	Certified Physician	Certified Physician	Doctor of medicine or osteopathy with a controlled substances license	Certified Physician	Certified Physician	Certified physician who has completed 2 CME credits	Certified physician, physician assistant or advanced practice nurse	Doctor of Medicine or Doctor of Osteopathy	Certified Physician or an advanced practice nurse licensed to prescribe controlled substances	Certified Physician	Doctor of Medicine, Doctor of Osteopathy, nurse practitioners and most mid-level medical providers	Certified Physician who has completed a 4-hr course on marijuana	Certified physician	Doctor of Medicine, advanced practice registered nurse, naturopath, or osteopathic physician	Doctor of Medicine or Doctor of Osteopathy	Doctor of Medicine or Doctor of Osteopathy
Continuing Medical Education	No	Yes Offered by the U of Arizona's Mel and Enid Zuckerman College of Public Health	No	No	No	No	No	No	Yes Offered by the Massachusetts Medical Society	No	No	No	No	No	No	No	No	No	No
Physician required to recommend dosing	Yes Daily quantity of marijuana & recommended time prescribed	No	Required to indicate amount of marijuana or no of plants if exceed the possession limit	Required to indicate amount of marijuana	No	No	No	Not specified	Required to indicate amount of marijuana	Dept of Health is currently looking at recommended dosing	Not specified	Not specified	Required to indicate amount of marijuana	Not required	Required to indicate amount of marijuana	No	No	No	No
Allow for Caregivers		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Marijuana for minors	Not specified	Yes	Yes	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Last updated May 26, 2015

	Canada	Arizona	Colorado ^a	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon ^a @	Washington ^a @
Quantity for personal possession	150 g	25 oz (14-day)	2 oz	25 oz (1 month)	6 oz	25 oz (14-day)	25 oz (15-day)	30-day supply	10 oz (60-day)	30-day supply	25 oz (14-day)	2 oz	2 oz (30-day)	6 oz	30-day	25 oz (15-day)	2 oz dried	24 oz	24 oz
Personal cultivation	Not allowed	Under limited circumstance Up to 12 plants	Yes Up to 6 plants	Not allowed	Not allowed	Not allowed	Yes Up to 6 plants	Not allowed	Under limited circumstance	Not allowed	Under limited circumstance Up to 12 plants	Not allowed	Not allowed	Under limited circumstance Up to 12 seedlings and 4 mature plants	Not allowed	Yes Up to 12 plants	Yes Up to 9 plants (2 mature and 9 immature)	Yes Up to 6 plants	Yes Up to 15 plants
Allowed forms of marijuana	Dried only ^a	Dried, marijuana infused edibles and marijuana-infused non-edibles are allowed	Broad range of products allowed, including: any food, drink, pill, ointments, tinctures, and concentrates	Dried, marijuana extracts (tinctures/oils) , topical oils or lotions, transdermal patches, baked goods, capsules, or pill form are allowed Chocolates and candies containing marijuana are prohibited	Dried, tinctures, ointment, food, drinks	Dried, concentrates; tinctures, tonics; ointments; balms; infused food products, soda or teas; capsules Marijuana-infused products requiring refrigeration or hot-holding are prohibited	Dried, tinctures, and topical products such as balm, lotion and ointment	Dried, tinctures, aerosols, oils, ointments, wax, capsule, suppository, dermal patch, cartridge or other product containing medical marijuana concentrate Marijuana-infused food is not allowed	Dried, oil, ointment, aerosols, tinctures, and marijuana-infused edibles etc However, marijuana-infused edibles must not resemble candies as it appeals to children	Oil: pill, vaporized delivery method, and any other method as approved by the commissioner Dried marijuana is NOT allowed	Topical products, ointments, oils and tinctures, edibles (food, extracts)	Dried, edible products, ointments, aerosols, oils, and tinctures	Edible form includes: lozenges, tablets, capsules, drops, tinctures and syrups, and topical formulations Edible forms are only available only to minors	Regulation does not specify the types of products allowed apart from marijuana concentrates	Extract in oil for sublingual administration , an extract for vaporization or an extract in capsule for ingestion Smoking of dried marijuana is Not allowed	Dried and ingestion options of useable marijuana	Dried and marijuana-infused products	Dried, edible products, ointments, tinctures, oil	Dried Regulation is silent on other forms of marijuana
Definition of usable cannabis/ marijuana	NA	Dried flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks and roots of the plant and does not include the weight of any non-marijuana ingredients combined with marijuana and prepared for consumption as food or drink	Seeds, leaves, buds, and flowers of the plant (genus) cannabis, and any mixture or preparation thereof, which are appropriate for medical use as provided in this section, but excludes the plant's stalks, stems, and roots	Dried leaves and flowers of the marijuana plant, and any mixtures or preparations of such leaves and flowers, that are appropriate for the palliative use of marijuana, but does not include the seeds, stalks and roots of the marijuana plant;	Dried leaves and flowers of the marijuana plant and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, other preparations thereof, including the resin extracted from any part of the plant, but does not include the stalks, and roots of the plant	Seeds, leaves, buds, and flowers of the cannabis plant, and any mixture or preparation thereof, including the resin extracted from any part of the plant, but does not include the stalks, and roots of the plant	Dried leaves and flowers of the marijuana plant that require no further processing, and any mixture or preparation of those dried leaves and flowers, including but not limited to tinctures, ointments, and other preparations It does not include the seeds, stalks, leaves that are disposed of and not dried for use and roots of the marijuana or other ingredients in goods prepared for human	Dried leaves and flowers It does not include seedling, seeds, stems, stalks, or roots of the plant or the weight of any non-marijuana ingredients combined with marijuana, such as ingredients added to prepare a topical administration	Fresh or dried leaves and flowers and any mixture or preparation thereof, including MIPs, but does not include the seedlings, seeds, stalks, or roots of the plant	Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins, and is delivered in the form of: (1) liquid, including, but not limited to, oil; (2) pill; (3) vaporized delivery method with use of liquid or oil but which does not require the use of dried leaves or plant form; or (4) any other method, excluding smoking,	dried leaves and flowers of a plant of the genus Cannabis, and any mixture or preparation thereof, that are appropriate for the medical use of marijuana, and	the dried leaves and flowers of the cannabis plant and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant and does not include the weight of any non-cannabis ingredients combined with cannabis and prepared for consumption as food or drink	dried leaves and flowers of the female marijuana plant, and any mixture or preparation thereof, and does not include the seedlings, seeds, stems, stalks or roots of the plant	dried leaves and flowers of the female cannabis plant and cannabis-derived products, including concentrates, but does not include the seeds, stalks, and roots of the plant	No definition of useable marijuana See allowed forms above	dried leaves and flowers of the marijuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant	dried leaves and flowers of marijuana, and any mixture or preparation thereof, and does not include the seeds, stalks, and roots of the plant		

¹ Since the Supreme Court of Canada in Smith on June 11, 2015 individuals are entitled to legal access to forms of cannabis beyond the dried form In response to the SCC decision Health Canada allows, by virtue of an exemption to the CDSA, for the production and sale of cannabis derivatives such as oil by licensed producers to their registered clients

Last updated May 26, 2015

	Canada	Arizona	Colorado*	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon* @	Washington* @
					topical administration, food, or drink		consumption or use			approved by the commissioner									
Limitations on the use / possession	Not specified		Cannot use marijuana: - In plain view or in a place open to general public - Correction facility - Subject to sentence to incarceration - In a vehicle, aircraft or boat - In or on the grounds of a school/school bus Cannot possess marijuana in or on the grounds of a school bus or school	Cannot use marijuana: - in a motor bus or a school bus or in any other moving vehicle, - in the workplace - on any school grounds or any public or private school, dormitory, college or university property, - in any public place, or - in the presence of a person under the age of eighteen	Cannot possess marijuana: - In a school bus - On the grounds of pre-school, primary/secondary school - Correctional facility - Vehicle - Private residence to provide child care Cannot use marijuana: - As above - Public place				Does not allow the operation of a vehicle, boat or aircraft under the influence of marijuana Does not require any accommodation of medical use of marijuana in any place of employment, school bus, school grounds, youth center, correctional facility, or in any public space				Patients may not operate, navigate, or be in control of any vehicle, aircraft, railroad train, or stationary heavy equipment vessel while under the influence of marijuana Patients may not smoke marijuana, - On a school bus or public form of transportation - In a private vehicle unless the vehicle is not in operation - On any school grounds, in any correctional facility, at any public park or beach, at any recreation center		Cannot use marijuana: - public place - places of employment - bars - food service establishments - enclosed indoor areas open to public containing a swimming pool - public means of transportation - public transportation terminals - youth centers and facilities - child care facilities - child day care centers - group homes for children - public institution for children - residential treatment facilities for children and youth - public and private colleges, universities and other education and vocational institutions - hospitals and residential health care facilities - commercial establishment - indoor areas - zoos - vehicles				

Last updated May 26, 2015

	Canada	Arizona	Colorado*	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon* @	Washington* @
															- within 100ft of entrances to schools				
THC/CBD limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	No limit	Max THC: 10%	No limit	Max THC: 10mg per dose	No limit	No limit	No limit	No limit
Defined serving size for infused products	NA	Not Specified	10mg of THC per serving and no more than 100mg of THC in edible retail product	Not Specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified
Commercial cultivation	Licensed producer	Non-profit licensed dispensary	Licensed medical marijuana centre	Licensed producer	Licensed Compassionate Centres	Licensed cultivation centre	Non-profit licensed dispensary Patients designate dispensaries to grow on their behalf	Licensed grower	Non-profit Licensed dispensary	Licensed manufacturer	Licensed cultivation facility	Alternative Treatment Centre (ATC)	Alternative Treatment Centre (ATC) (non-profit or for-profit)	Non-profit Licensed producer	Licensed organization	Non-profit Compassionate Center	Non-profit dispensary	Non-profit Licensed dispensary	NA
Commercial processing	Licensed producer	Non-profit licensed dispensary Licensed kitchen to produce infused edibles	Licensed medical marijuana centre (cultivate marijuana) Licensed infused products manufacture	Licensed producer	Licensed Compassionate Centre	Licensed cultivation centre	Non-profit licensed dispensary	Licensed processing dispensary	Non-profit Licensed dispensary	Licensed manufacturer	Licensed production facility	Alternative Treatment Centre	Alternative Treatment Centre (non-profit or for-profit)	Non-profit Licensed producer	Licensed organization	Non-profit Compassionate Center	Non-profit dispensary	NA (Patients produce marijuana infused products then transfer to dispensary)	NA
Commercial dispensary	No store fronts allowed, by mail only	Non-profit licensed dispensary (store fronts)	Licensed medical marijuana centre (store fronts)	Licensed dispensary Only pharmacists can dispense marijuana (store fronts)	Licensed Compassionate Centre (store fronts)	Licensed dispensary (store fronts)	Non-profit licensed dispensary (store fronts)	Licensed dispensary (store fronts)	Non-profit Licensed dispensary (store fronts and home delivery)	Licensed distribution facility operated by a licensed manufacturer (store fronts)	Licensed dispensary - store fronts and home delivery by medical marijuana establishment agent allowed	Alternative Treatment Centre (store fronts) Home delivery prohibited	Alternative Treatment Centre (non-profit or for-profit) Store fronts Home delivery prohibited	Non-profit Licensed producer No store fronts allowed, by mail only	Licensed dispensary operated by licensed pharmacists (store fronts)	Non-profit Compassionate Center Store fronts Home delivery under limited circumstances	Non-profit dispensary (store fronts)	Non-profit Licensed dispensary	NA
LP limit	No limit	126 dispensaries	No limit	Min of 3 and Max of 10 of licensed producers	No limit	22 cultivation centres 66 dispensaries	No limit	15 cultivation centres No limit on dispensaries	35 Licensed dispensaries	2 Licensed manufacturer 5 Each manufacturer can operate up to 4 distribution facilities	68 licensed dispensaries	4 ATCs	6 ATCs	23 Licensed producers	5 Licensed organizations Each organization can operate up to 4 dispensaries	3 Compassion Centers	4 licensed dispensaries	No limit	NA
Production and distribution limits	No limit Graduated licensing	No limit	Obtain no more than 30% of their stock from another center Allow to cultivate based on the # of patients served	No limit	Up to 150 plants per licensed centres	No limit	Allow to cultivate based on the # of patients served	No limit	Allow to cultivate based on the # of patients served	Not specified	Not specified	Up to 3 mature plants, 12 seedlings, and 6 oz of useable marijuana per each patient designated And up to additional of 80 mature plants, 160 seedlings and	No limit	450 plants and seedlings per LP	Each licensed organization can produce up to 5 strains of medical marijuana product	Allow to cultivate based on the # of patients served	Allow to cultivate and possess up to 28 mature plants, 98 immature plants, and 28 oz of useable marijuana If LP has more than 14 patients, they can cultivate and possess 2 mature	Each designated grower can grow for up to 4 patients	NA

Last updated May 26, 2015

	Canada	Arizona	Colorado*	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon* @	Washington* @
												80 oz of useable					plants, 7 immature plants and 2 oz of useable marijuana extra for every registered patient Each Licensed producer can serve up to 1000 patients		
Background checks	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA
Packaging and labelling Requirement	Yes	Detailed labeling requirements	Yes, detailed	Yes, detailed	No	Yes, detailed	Not detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Not detailed	Not detailed	Yes	NA
Ref to Child resistance Std?	C01001(2) to (4) of the Food and Drug Regulations	Does not specify packaging requirements	ASTM classification standard D3475-13 State standard 16 CFR 170020 (1995)	Standard for 'special packaging' in the Poison Prevention Packaging Act of 1970 Regulations, 16 CFR 17001(b)(4)		ASTM classification standard D3475-14			Child-proof containers No ref to standards				Does not require child-resistant packaging		Child-resistant package No ref to standards				
Labeling (in relation to possession limit)	Net weight in grams	Amount of useable marijuana used in the product	Amount of useable marijuana used in the product	Quantity of useable marijuana contained in the product		Amount of useable marijuana used in the product			Amount of useable marijuana used in the product				Quantity of marijuana in package		Single dose of THC and CBD content for the product in mg				
Security Requirement	Yes	Yes, detailed	Yes, detailed	Yes, detailed	Yes, not detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Yes, detailed	Not detailed	Yes, detailed	Yes, detailed	Not detailed	Yes, detailed	NA
GMP / standards	Generic requirements	Generic requirements Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Generic requirements with specific requirements for the production of marijuana-infused concentrates	Generic requirements Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Not specified	Generic requirements Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Generic requirements Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Specific requirements for the production of marijuana-infused concentrates	Generic requirements Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Generic requirements	Specific requirements for the production of marijuana-infused edibles	Specific requirements for the production of marijuana concentrates Production facilities for marijuana-infused edibles must comply with State Food Acts and Regulations	Not specified	Generic requirements	Specific requirements for the production of marijuana extractions	Not specified	Not specified	Not specified	NA
Cost (\$US)		\$350-400 / oz	\$400 / oz	\$350-550/oz	Not specified	\$15 per gram	Not specified	Not specified	Not specified	Not specified	Not specified	Not specified	\$400-520 / oz	Not specified	Not specified	Not specified	Not specified	\$280 / oz	Not specified
Application Fees / Licensing Fees	Not specified	Application \$5000 Licensing \$1000	Application Type 1 (1-300 patients) - \$6,000 Type 2 (301-500 patients) - \$10,000 Licensing Producer -	Application Producer - \$25,000 Dispensary - \$1000 Licensing Producer -	Not specified	Application Producer - \$25,000 Dispensary - \$5000 Licensing	Licensing \$12,000	Application Grower - \$6,000 Grower & Dispensary \$11,000	Application \$30,000 Licensing \$50,000	Application \$20,000 Licensing TBD	Application \$5000 Licensing \$3000	Application \$3000 Licensing \$40,000-\$80,000 Depends on geographical	Application \$10,000 Licensing \$20,000	Application \$10,000 Licensing \$30,000 for the first 150 cannabis plants, and	Application \$10,000 Licensing \$200,000 for two years once the	Application \$250 Licensing \$5,000 ID card for each board	Application \$2,500 Licensing \$20,000 Annual renewal	Application \$4000 Licensing \$3,500	NA

Last updated May 26, 2015

	Canada	Arizona	Colorado*	Connecticut	Delaware	Illinois	Maine	Maryland	Massachusetts	Minnesota	Nevada	New Hampshire	New Jersey	New Mexico	New York	Rhode Island	Vermont	Oregon* @	Washington* @
			Type 3 (>501 patients) - \$14,000 <u>Renewal fees</u> Type 1 (1-300 patients) - \$3,000 Type 2 (301-500 patients) - \$7,000 Type 3 (501 or more patients) - \$11,000	\$75,000 Dispensary - \$5,000		\$200,000 for the first year and \$100,000 annually thereafter for producer		Dispensary/ Processing Dispensary \$5000 <u>Biennial licensing fee</u> Grower - \$250,000 Grower & Dispensary - \$330,000 Dispensary/ Processing Dispensary \$80,000				location of the ATC		\$10,000 for each additional 50 plants thereafter	organization is licensed	member and employees: \$75,000 (renew every 2 years)	\$30,000		

Last updated: November 17, 2015

Medical Marijuana Regimes in Other Countries

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(need to add Finland)	

Last updated: November 17, 2015

<p>Netherlands</p>	<p>Summary Marijuana for medical purposes has been legalized in the Netherlands since 2003. The Office of Medicinal Cannabis (OMC) was created in 2000 under the Ministry to Health, Welfare and Sport, and is the licensing authority that oversees the cultivation and distribution of marijuana for medical and scientific purposes. The medical marijuana program was established to provide a legal access of quality medical marijuana to patients. Prior to the establishment of OMC, patients can only obtain marijuana illegally, or from 'coffee shops', which have been in the Netherlands since 1976.</p> <p>Growing marijuana is illegal; however, police usually tolerates the personal cultivation of marijuana if it is less than 5 plants (i.e. police will destroy the plants but will not prosecute the grower). However, this is not consistent throughout the country and some cities may be stricter than others when enforcing the laws.</p> <p><u>Overview of LP model</u> OMC licenses marijuana growers to cultivate marijuana, which is then sold to OMC. Currently, Bedrocan is the sole supplier of medical marijuana in the Netherlands. Bedrocan produces ~400-500 kg a year. Roughly 25% are exported to other countries. (Allard transcript) OMC acts as a wholesaler for medical marijuana, performs quality control, conducts packaging and distributes marijuana exclusively to pharmacies, pharmacy-holding General Practitioners, hospitals and veterinarians. To ensure that the medical marijuana is of pharmaceutical quality, OMC conducts testing on all medical marijuana to ensure that it contains no pesticides, heavy metals, bacteria, mould or other potential pathogens.</p> <p>OMC also exports marijuana to other countries, such as Germany and Czech Republic for scientific and medical purposes.</p> <p><u>Challenges</u> When OMC was established, it was expected that roughly 15,000 patients would be registered under the medical marijuana program. However, to date, only 1,500 signed up. The low rate may be due to several reasons: cost of marijuana from OMC is more expensive than those sold at coffee shops and limited strain options (only five strains are offered by OMC).</p> <p>Roles of health professionals: Only patients with a valid prescription can purchase medical marijuana through pharmacies. Certified physicians are allowed to prescribe marijuana to treat a variety of ailments. The physician must specify in the certification the amount of medical marijuana to be used by the patient, as well as a clear description of the way the marijuana should be used, including a description of the maximum amount of marijuana that may be used in a period of 24 hours.</p> <p>Dosing: Physicians are required to indicate in the prescription the recommended amount of marijuana for patients. According to OMC, the average daily use is approximately 0.68g per patient. OMC does not provide guidance to doctors regarding dosing(Allard transcript). OMC recommends the oral use of one cup of tea (0.2L) by preparing boiling 0.5g of marijuana in 0.5L of water. OMC notes that on</p>	<p>Office of Medicinal Cannabis http://www.ncsm.nl/english/the-dutch-medicinal-cannabis-program</p>
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	<p>average it take 2 weeks before the maximum effect is reached and that if after 1-2 weeks the effect is insufficient or unsatisfactory, one additional cup (0.2L) can be taken in the morning. OMC notes that the dosage can be slowly increased if necessary. Alternatively, OMC recommends that inhalation once or twice daily of a few puffs at the start of the treatment. OMC notes that in principle, it advises against smoking.¹</p> <p>Approved medical conditions: Based on the availability and quality of clinical data and scientific literatures, OMC indicated a selection of medical conditions that may benefit from the treatment of medical marijuana. These conditions include:</p> <ul style="list-style-type: none"> • pain and muscle spasms/cramps associated with multiple sclerosis or spinal cord damage; • nausea, reduced appetite, weight loss and debilitation associated with cancer and AID; • nausea and vomiting caused by medication or radiotherapy for cancer and HIV/AIDS; • long-term neurogenic pain (i.e. originating in the nervous system) caused by, for example, nerve damage, phantom limb pain, facial neuralgia or chronic pain following an attack of shingles; and • tics associated with Tourette Syndrome.² <p>Physicians are allowed to prescribe marijuana for other ailments as well. However, as a general guideline, marijuana tends to be prescribed if the standard treatments and registered medicines are not having the required effect or are causing too many side effects.</p> <p>Allowed forms of marijuana: Dried only. Eco Pharmaceuticals and Tonsfal Apotek (a pharmacy) in the Netherlands is looking into developing methods in producing cannabis oil and CBD oil for children.</p> <p>The Netherlands does not prohibit patients from producing marijuana extracts.</p> <p>THC/CBD limit: Currently, only 5 types of dried marijuana are provided through pharmacies, including Bedrobinol (13.5% THC; <1% CBD), Bedrocan (22% THC, <1% CBD), Bediol (6.3% THC; 8% CBD), Bedica (14% THC; <1% CBD) and Bedrolite (<1% THC, 9% CBD).</p> <p>Marijuana allowed for children: Yes</p> <p>Possession/Cultivation: Personal cultivation is not allowed. There is no limit on the maximum possession amount for patients qualified for medical marijuana.</p>	
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¹ Office of Medicinal Cannabis. http://www.cannabisbureau.nl/en/doc/pdf/5089-A5-BMC-Pat-ENG-web_35842.pdf

² Office for Medicinal Cannabis. <http://www.cannabisbureau.nl/en/MedicinalCannabis/Doctorsandpharmacists/Groundsforuse/>

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	<p>Packaging and Labelling: TBC</p> <p>Security requirements: TBC</p> <p>Production/manufacturing standards: TBC</p> <p>Cost: The cost is €38 per five grams. This excludes 6% sales tax and a fee for pharmacy to dispense (~€6). 15% of the cost of marijuana goes to OMC.</p> <p>Application and licensing fee: TBC.</p> <p>Financial requirements for LP: TBC</p>	
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Last updated: November 17, 2015

<p>Israel</p>	<p><u>Summary</u> Marijuana for medical purposes has been legal in Israel since the early 90s, however, it is only until recently, Israel is implementing and regulating a much more sophisticated licensed producer model.</p> <p>In 2011, the Israel Medical Cannabis Agency (IMCA) was created to support the development and implementation of the new medical marijuana regime. This new program is expected to come into effect by early 2015. The new program will use Sarel Ltd., a government-affiliated pharmaceutical supplier, to act as a middleman between growers and pharmacies. Sarel Ltd. will purchase marijuana from growers, test it to ensure that the concentration of cannabinoids complies with the regulations, and supply it to the pharmacies that win the tender.³ Currently, the regulations require growers to state the concentration of cannabinoids and the amount of marijuana on the package. Under the new system, Sarel Ltd. will ensure that the medical marijuana is packaged and labelled according to the new regulations established by the Ministry of Health (MOH).⁴ The MOH is expected to publish 7 tenders in April 2015.⁵ These 7 tenders include: growers, processors/manufacturers, distributors, pharmacies, packaging, importers and testing laboratories.</p> <p>IMCA indicated that under this new regime, they are looking for establishments that can offer the best quality of marijuana at the lowest price.</p> <p><u>Supply-demand</u> IMCA plans to limit the number of medical marijuana establishments: Growers – TBC Manufacturers – 1 Pharmacies – 180 Testing lab – <10 Distributors – TBC</p> <p>The limit is based on the consultation with other government departments that are implicated, including agricultural, health, customs, and law enforcement etc.</p> <p>There will also be a limit on the quantity of marijuana allowed to be produced by each of the medical marijuana establishments. The amount will not be distributed evenly among the establishments. If an establishment cannot meet the maximum production limit, IMCA may reduce their limit and allocate that to another establishment.</p> <p><u>Best practices/challenges</u> Making marijuana-infused cookies is challenging, because it is difficult to evenly distribute the amount of cannabis consistently throughout the cookie.</p> <p>Roles of healthcare practitioners: Authorization to possess or use marijuana must be issued by a specialist practicing in the disease area from which the patient suffers. While any physicians in Israel can issue a recommendation, the MOU has a multi-disciplinary board of 36 Medical Doctors who can actually authorize medical marijuana. Other medications must have been tried first and found not to work as marijuana is considered a medication of "last resort". The requesting physician must state in the recommendation letter that all conventional drug treatment were used thus far and has been unsuccessful.</p> <p>Dosing:</p>	
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<p>Qualifying patients are allowed to possess 100 grams of dried marijuana per month; however, they cannot carry more than 60 grams of dried marijuana at one time. The physician normally starts prescribing at 20 grams per month. The patient gets reassessed and if needed, they could get an increase in dose up to 100 grams a month. On average, the amount consumed per patient is approximately 37 grams per month.</p> <p>Approved medical conditions: Currently, patients with the following conditions could be considered for recommendations for medical marijuana:</p> <ul style="list-style-type: none"> • Chronic pain due to a proven organic etiology • Orphan diseases (<i>i.e.</i>, diseases and conditions that affect only a small percentage of the population and for which few, if any, pharmaceutical drugs are developed) • HIV patients with significant loss of body weight or a CD4 cell count below 400 • Inflammatory bowel disease (but not Irritable Bowel Syndrome) • Multiple sclerosis • Parkinson's disease • Malignant cancerous tumour in various stages. • Neuropathic pain • Uncontrolled Epilepsy • Post-Traumatic Stress Disorder <p>Allowed forms of marijuana: Flowers (dried or in cigarettes), oil and marijuana-infused cookies (only for children). IMCA indicated those 3 forms of marijuana are allowed because other forms of marijuana products, such as ointment and candies etc, lack adequate scientific evidence to support their efficacy. IMCA recognized that smoking marijuana is not preferable due to the potential health hazards and they are currently exploring other means, including exploring the development of other medicinal tools to replace the smoking of marijuana (vaporizer).</p> <p>THC/CBD limit: Israel sets a limit for THC and CBD levels. The lower and upper limit for THC is 7% and 24% respectively, and the maximum amount of CBD is 10%. Israel sets a THC limit because they believe that THC levels beyond 24% do not contribute to any medicinal benefits to the patient.⁶</p> <p>Marijuana allowed for children: Yes</p> <p>Possession/Cultivation: Personal cultivation is not allowed.</p> <p>Packaging and Labelling: TBC</p> <p>Security requirements: TBC</p>	
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³ Greener grass: Should Israel's policy on medical marijuana be replicated abroad? - <http://www.haaretz.com/weekend/week-s-end/greener-grass-should-israel-s-policy-on-medical-marijuana-be-replicated-abroad-1.466089>

⁴ Conference call with Mr. Yuval Landschaft, current head of medical marijuana program in Israel, in October 2014.

⁵ Email correspondence with Mr. Yuval Landschaft, current head of medical marijuana program in Israel, January 2015.

⁶ Conference call with Dr. Yehuda Baruch in November 2013 (Former head of medical marijuana program who was appointed by the Israeli's Ministry of Health)

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	<p>Production/manufacturing standards: Marijuana-infused oil or extracts are required to be produced by ethanol-extraction method.⁷</p> <p>There will be GMP requirements for the production and manufacturing of marijuana products (dried, oil and cookies), and testing laboratories. Further information on the requirements will be shared with us once the requirements have been approved by the Israel Supreme Court in April 2015.</p> <p>Cost: Currently, qualifying patients pay a fixed price of about \$100 per month, regardless of the amount of marijuana recommended. However, the pricing structure may change in the future under the new system.</p> <p>Application and licensing fees: Israel does not charge application or licensing fees from potential producers, manufacturers, etc.</p> <p>Financial requirements for LP: TBC</p>	
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⁷ Conference call with Dr. Yehuda Baruch in November 2013 (Former head of medical marijuana program who was appointed by the Israeli's Ministry of Health)

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Austria	<p>In 2008, Austria adopted a bill allowing the cultivation of cannabis for medical and scientific purposes, under the Health Ministry's control. The approved bill will give the Austrian Agency for Health and Food Safety (<i>Österreichische Agentur für Gesundheit und Ernährungssicherheit, AGES</i>), which operates under the supervision of the Federal Ministry of Health (BMG), the exclusive right to grow the plant. The cultivation may only be done by pharmaceutical companies which have been licensed for the production of medicines and poisons. Patient's access to marijuana for medical purposes is not specified at this time⁸.</p> <p>The production of cannabis for medical use is theoretically allowed however the sale of it is prohibited under Austrian drugs laws. The sale of synthetic cannabis pharmaceuticals (containing THC) such as Sativex is legal with a prescription from a licensed physician. While it is illegal to grow cannabis in order to produce THC, Austrians may purchase cannabis seeds/seedlings legally. THC is prohibited, but none of the other cannabinoids. This leaves it unclear as to whether cannabis patients are allowed to grow plants, as long as the plants are harvested before the flowering phase. Research suggests cannabidiol may be extracted from the leaves of immature plants. In the meantime, Austria produces hemp (which does not exceed a THC content of 0.3%) for medical and industrial purposes.</p>	
Chile	<p>In Chile, medical marijuana is legal; however, it was not fully endorsed by the government until recently. The Agricultural Services, a government organization, can issue authorizations for the personal cultivation of marijuana for medical purposes since 2005. To date, only two permits have been granted. In September 2014, the Chilean government approved a pilot pain prevention program run by the Daya Foundation, a local nonprofit organization dedicated to alleviating human suffering. The Daya Foundation is authorized to grow medical marijuana in the Santiago municipality of La Florida, on a piece of 850 square meters of residential land. Once the marijuana plants have been cultivated, oil from the plants will be used to treat 200 selected patients as a part a clinical study on the effect of marijuana as a pain medication. It is expected that the harvesting of marijuana plants will begin in April 2015, with treatments using the marijuana-infused oil scheduled to take place in May 2015.⁹ In January 2015, the Chilean government approved AgroFuturo, a medical research company, to begin commercial production of marijuana for medical and research purposes¹⁰. However, there are no further details on the regulatory requirements for the medical marijuana facility.</p>	
Czech Republic	<p>Marijuana for medical purposes was legalized in Czech Republic in April 2013, although provisions allowing for the cultivation and supply of medical marijuana (through a licensing procedure) came into force on March 1, 2014. The State Institute for Drug Control is the government authority responsible for implementing the medical marijuana program. It is responsible for issuing cultivation licenses to local growers for a maximum of five years, purchasing grown and harvested medical marijuana from licensed producers, and distributing medical marijuana to pharmacies. It is unclear whether any local growers have been licensed yet. However, to date, Czech Republic has been importing dried marijuana from Israel and the Netherlands.</p> <p>Patients with a valid prescription from a certified physician can purchase medical marijuana at local pharmacies and are allowed to possess a maximum of 30 grams of dried marijuana per month. Information on the medical marijuana program in Czech Republic is limited. It is unclear whether patients have to meet one or more qualifying medical conditions in order to possess or use medical marijuana. It is also unclear whether there is a limit on THC and CBD levels.</p>	

⁸ Austrian Agency for Health and Food Safety website <http://www.ages.at/en/service/ask-us-we-answer/hanf/>

⁹ Americas Society of Council of the Americas. Medical Marijuana Planted in Chile. <http://www.americasquarterly.org/tags/fundacion-daya>

¹⁰ Latin American Herald Tribune. Chile Authorizes Second Cultivation of Pot of Medicinal Purposes. <http://laht.com/article.asp?ArticleId=2368493&CategoryId=14094>

Last updated: November 17, 2015

Italy	The use of medical marijuana has been legal since 2007. Currently, physicians can prescribe medical marijuana. The Ministry of Health in Italy does not provide a list of qualifying conditions for physicians to prescribe marijuana, however, similar to the Netherlands, marijuana tends to be prescribed when there is a lack of treatment options in the country. Patients with a prescription can purchase dried marijuana imported from the Netherlands at local pharmacies. However, in 2013, only a few dozen people accessed the medical marijuana program because the cost of marijuana was too high. In September 2014, the Italian government announced a pilot project to grow medical marijuana at a secure military lab outside of Florence. The medical marijuana will be distributed through pharmacies by the end of 2015. ¹¹ The purpose of the pilot project is to reduce the cost of medical marijuana and to make it more available to qualifying patients. To date, there is no further information on the regulatory requirements for cultivating and distributing medical marijuana.	
Germany	Marijuana for medical purposes is legal in Germany. In 2011, Germany allowed for marijuana-containing proprietary medical products to be manufactured and prescribed, after clinical testing and licensing by the Federal Institute for Drugs and Medical Devices (BfArM). ¹² However, the medical marijuana program in Germany is highly restrictive and costly (€15-20 per gram). Only a very limited number of qualifying patients with a prescription are allowed to purchase dried marijuana from pharmacies. These patients suffer from chronic pain, multiple sclerosis, Tourette's syndrome, and other severe illnesses. ¹³ The pharmacies import four strains of dried marijuana from the Netherlands. Although BfArM may grant a license to cultivate marijuana for scientific purposes or other purposes in the public interest, up until July 2014, no exemptions to cultivate for medical reasons, for personal use, have been granted. In July 2014, a Court ruling in Cologne granted approval on a case-by-case basis, to three people for personal cultivation of medical marijuana. ¹⁴	

¹¹ Reuters. Secure Italian Military lab to grow medical marijuana. <http://www.reuters.com/article/2014/09/18/us-italy-marijuana-idUSKBN0HD21G20140918>

¹² European Monitoring Centre for Drugs and Drug Addiction. Country overview: Germany. <http://www.emcdda.europa.eu/publications/country-overviews/de>

¹³ International Association for Cannabinoid Medicines. Bulletin of Feb 15, 2009. http://www.cannabis-med.org/english/bulletin/ww_en_db_cannabis_artikel.php?id=289

¹⁴ Leafly. Germany Now Permitting Chronic Pain Sufferers to Grow Cannabis for Medical Reasons. <http://www.leafly.com/news/headlines/germany-now-permitting-chronic-pain-sufferers-to-grow-cannabis-fo>

Question Period Note

MARIJUANA LEGALIZATION

ISSUE:

The Liberal electoral platform undertook to "legalize, regulate and restrict access to marijuana" and to establish a federal/provincial/territorial task force to design a strict sales and distribution system.

PROPOSED RESPONSE:

- **Our Government has committed to legalize, strictly regulate, and restrict access to marijuana in a careful and orderly way. And we will take the time that is necessary to get this right.**
- **Until Parliament has enacted new legislation and new rules are in place to ensure that marijuana is carefully regulated, current laws remain in force and should be obeyed.**
- **We respect the role that law enforcement and agencies have in charging people for criminal offences, and at this time, marijuana is still a Schedule II drug under the *Controlled Drugs and Substances Act*.**
- **Our government, led by the Department of Justice and supported by the departments of Health and Public Safety and Emergency Preparedness and working with the Parliamentary Secretary, the Member for Scarborough Southwest, will design a system of strict regulation, with strong sanctions for those who sell outside this framework, to ensure that we will keep it out of the hands of children, and the profits out of the hands of criminals.**
- **We are committed to reviewing evidence and best practices, and hearing from Canadians as we develop our approach.**

If asked about drug impaired driving (in the context of legalizing marijuana):

- **Our Government is committed to ensure that those who drive while impaired by drugs, including marijuana, will be subject to stronger laws and we are examining ways to improve the ability to detect and prosecute drug impaired driving.**

If asked about research on the use of technology for roadside testing of drivers under the influence of marijuana:

- The research of the Canadian Society of Forensics Sciences, particularly the Drugs and Driving Committee, will help guide us as we move towards new marijuana legislation.
- The Drugs and Driving Committee of the Canadian Society of Forensic Science provides scientific advice to the federal government on this issue. It has been reviewing the scientific literature on legal limits for various impairing drugs, including THC, heroin, and cocaine. The Drugs and Driving Committee has also considered the reliability of the technology for oral fluid drug screening at the roadside.
- I can assure you that our government is committed to ensure that those who drive while impaired by drugs, including marijuana, will be subject to stronger laws.

BACKGROUND:

The Liberal Party 2015 platform specifically proposed:

- to remove marijuana consumption and incidental possession from the criminal law (*Controlled Drugs and Substances Act* (CDSA));
- to create new, stronger laws to punish more severely those who provide it to minors, those who operate a motor vehicle while under its influence, and those who sell it outside of the new regulatory framework; and
- to create a federal/provincial/territorial task force to design a new system of strict marijuana sales and distribution.

The ministers of Health, Justice and Public Safety and Emergency Preparedness will be leading the development of this initiative.

The CDSA currently makes it a summary conviction offence to possess 30 grams or less of cannabis marijuana or 1 gram or less of cannabis resin ("a small amount of cannabis") which is punishable by up to six months imprisonment and/or a fine of up to \$1,000. The possession of more than these amounts of these products is a hybrid offence punishable by imprisonment for up to five years less a day if prosecuted by indictment.

The CDSA also imposes a number of mandatory minimum penalties for serious drug offences. None of these penalties apply to the offence of possession of small quantities of marijuana.

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Note pour la période de questions

LÉGALISATION DE LA MARIJUANA

SUJET :

Dans leur plate-forme électorale, les Libéraux se sont engagés à « légaliser et réglementer la marijuana et à en limiter l'accès » et à créer un groupe de travail fédéral-provincial-territorial qui mettra en place un réseau strict de vente et de distribution de marijuana.

RÉPONSE SUGGÉRÉE :

- **Notre gouvernement s'est engagé à légaliser, à réglementer strictement et à restreindre l'accès à la marijuana de façon soigneuse et ordonnée. Et nous prendrons le temps qu'il faut pour le faire comme il faut.**
- **Jusqu'à ce que le Parlement ait adopté de nouvelles dispositions législatives et jusqu'à ce que de nouvelles règles soient en place pour veiller à ce que la marijuana soit soigneusement réglementée, les dispositions actuelles demeurent en vigueur et devraient être respectées.**
- **Nous respectons le rôle que les forces de l'ordre et les organismes d'application de la loi ont en matière d'inculpation, et pour le moment, la marijuana est toujours une drogue inscrite à l'Annexe II de la *Loi réglementant certaines drogues et autres substances*.**
- **Notre gouvernement, dirigé par le ministère de la Justice et appuyé par les ministères de la Santé et de la Sécurité publique et de la Protection civil et en collaboration avec le secrétaire parlementaire, le député de Scarborough-Sud-Ouest, va concevoir un système de réglementation stricte, assorti de peines sévères pour ceux qui vendent de la marijuana en dehors de ce cadre, afin de garantir que nous empêcherons la marijuana de tomber entre les mains des enfants et les criminels d'en tirer profit.**
- **Dans le cadre de l'élaboration de notre approche, nous sommes déterminés à examiner les données et les pratiques exemplaires et à entendre les points de vue des Canadiennes et des Canadiens.**

Si une question est posée concernant la conduite avec les facultés affaiblies par la drogue (dans le contexte de la légalisation de la marijuana) :

- **Notre gouvernement est déterminé à garantir que les personnes qui**

conduisent lorsque leur capacité de conduire est affaiblie par l'effet d'une drogue, y compris la marijuana, seront assujetties à des dispositions législatives plus sévères; nous examinons actuellement des façons d'améliorer la capacité de détecter et de poursuivre les personnes dont la capacité de conduire est affaiblie par l'effet d'une drogue.

Si une question est posée au sujet de l'utilisation de la technologie pour l'administration de tests en bordure de la route pour le dépistage de conducteurs avec les capacités affaiblies par l'effet de la marijuana :

- Les travaux de recherche de la Société canadienne des sciences judiciaires, tout particulièrement du Comité sur les drogues au volant, nous guideront à mesure que nous progressons vers l'établissement de nouvelles dispositions législatives sur la marijuana.
- Le Comité sur les drogues au volant de la Société canadienne des sciences judiciaires fournit au gouvernement fédéral des avis scientifiques sur cette question. Il examine actuellement la littérature scientifique sur les limites légales de diverses drogues qui causent un affaiblissement des facultés, notamment le THC, l'héroïne et la cocaïne. Le Comité sur les drogues au volant examine également la fiabilité de la technologie pour le dépistage routier de drogue dans la salive.
- Je peux vous affirmer que notre gouvernement est déterminé à garantir que les personnes qui conduisent avec les facultés affaiblies par l'effet d'une drogue, y compris la marijuana, seront assujetties à des dispositions législatives plus sévères.

CONTEXTE :

La Plate-forme de 2015 du Parti libéral proposait plus particulièrement ce qui suit :

- Retirer la consommation et la possession de marijuana du *Code criminel* (*Loi réglementant certaines drogues et autres substances*).
- Adopter des mesures législatives plus sévères pour punir les personnes qui en fournissent aux mineurs, les personnes qui conduisent un véhicule automobile sous l'effet de la drogue et les personnes qui en vendent à l'extérieur du nouveau cadre réglementaire.
- Créer un groupe de travail fédéral-provincial-territorial pour mettre en place un nouveau réseau strict de vente et de distribution de marijuana.

La ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile piloteront cette initiative.

En vertu de la *Loi réglementant certaines drogues et autres substances*, le fait de posséder 30 grammes ou moins de cannabis (marijuana) ou 1 gramme de résine de cannabis (« une petite quantité de cannabis ») constitue une infraction punissable sur déclaration de culpabilité par procédure sommaire d'une peine maximale d'emprisonnement de six mois ou d'une amende maximale de 1 000 \$. La possession d'une plus grande quantité de ces substances constitue une infraction mixte punissable d'une peine maximale de cinq ans de prison moins une journée, si l'infraction était considérée comme un acte criminel (auteurs poursuivis par mise en accusation).

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Question Period Note

MARIJUANA LEGALIZATION

ISSUE:

The Liberal electoral platform undertook to “legalize, regulate and restrict access to marijuana” and to establish a federal/provincial/territorial task force to design a strict sales and distribution system.

PROPOSED RESPONSE:

- **Our Government has committed to legalize, strictly regulate, and restrict access to marijuana in a careful and orderly way. And we will take the time that is necessary to get this right.**
- **Until Parliament has enacted new legislation to ensure that marijuana is carefully regulated, current laws remain in force and should be obeyed.**
- **I will work with my Parliamentary Secretary, the Member for Scarborough Southwest, supported by the Ministers of Health and Public Safety and Emergency Preparedness to design a system of strict regulation with strong sanctions that keeps marijuana out of the hands of children, and the profits out of the hands of criminals.**

If asked about drug impaired driving (in the context of legalizing marijuana):

- **Our Government is committed to improving the safety of our roads and highways.**
- **As we move forward with our commitments, we will be sure to consider very carefully the issue of impaired driving. Those who drive while impaired by drugs, including marijuana, will be subject to stronger laws. We are examining ways to improve the ability to detect and prosecute drug impaired driving.**

If asked about research on the use of technology for roadside testing of drivers under the influence of marijuana:

- **The research of the Canadian Society of Forensics Sciences, particularly the Drugs and Driving Committee, will help guide us as we move towards new marijuana legislation.**
- **This committee provides scientific advice to the federal government on this issue. We will be using this research and advice to design a system of regulation built upon evidence-based policies.**
- **I can assure you that our government is committed to ensure that those who drive while impaired by drugs, including marijuana, will be subject to stronger laws.**

If asked about taxation of medical marijuana:

- **The long-standing position of the Canada Revenue Agency, which has been upheld by the courts, is that marijuana that is not acquired pursuant to a prescription taxable. It is too early to speculate on the impact legislation will have on the regulation of marijuana that is not acquired pursuant to a prescription.**
- **I will be working with my fellow Ministers and with our provincial and territorial partners to develop this new system of regulation, and this consultation will help define how we proceed.**

BACKGROUND:

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The ministers of Health, Justice and Public Safety and Emergency Preparedness will be leading the development of this initiative.

The CDSA currently makes it a summary conviction offence to possess 30 grams or less of cannabis marijuana or 1 gram or less of cannabis resin ("a small amount of cannabis") which is punishable by up to six months imprisonment and/or a fine of up to \$1,000. The possession of more than these amounts of these products is a hybrid offence punishable by imprisonment for up to five years less a day if prosecuted by indictment.

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RÉPONSE SUGGÉRÉE :

- **Notre gouvernement s'est engagé à légaliser, à réglementer strictement et à restreindre l'accès à la marijuana de façon soigneuse et ordonnée. Et nous prendrons le temps qu'il faut pour le faire comme il faut.**
- **Jusqu'à ce que le Parlement ait adopté de nouvelles dispositions législatives pour veiller à ce que la marijuana soit soigneusement réglementée, les dispositions actuelles demeurent en vigueur et devraient être respectées.**
- **Je vais travailler avec mon secrétaire parlementaire, le député de Scarborough-Sud-Ouest, avec l'appui des ministres de la Santé et de la Sécurité publique et de la Protection civil, pour concevoir un système de réglementation stricte, assorti de peines sévères afin d'empêcher la marijuana de tomber entre les mains des enfants et les criminels d'en tirer profit.**

Si une question est posée concernant la conduite avec les facultés affaiblies par la drogue (dans le contexte de la légalisation de la marijuana) :

- **Notre gouvernement est déterminé à améliorer la sécurité de nos routes.**
- **Nous allons nous assurer d'examiner très attentivement la question de la conduite avec facultés affaiblies. Les personnes qui conduisent lorsque leur capacité de conduire est affaiblie par l'effet d'une drogue, y compris la marijuana, seront assujetties à des dispositions législatives plus sévères. Nous examinons actuellement des façons d'améliorer la capacité de détecter et de poursuivre les personnes dont la capacité de conduire est affaiblie par l'effet d'une drogue.**

Si une question est posée au sujet de l'utilisation de la technologie pour l'administration de tests en bordure de la route pour le dépistage de conducteurs avec les capacités affaiblies par l'effet de la marijuana :

- **Les travaux de recherche de la Société canadienne des sciences judiciaires, tout particulièrement du Comité sur les drogues au volant, nous guideront à mesure que nous progressons vers l'établissement de nouvelles dispositions législatives sur la marijuana.**
- **Ce Comité fournit au gouvernement fédéral des avis scientifiques sur cette question. Nous allons utiliser cette recherche et ces conseils pour concevoir un système de régulation qui reposent sur des politiques fondées sur les données.**
- **Je peux vous affirmer que notre gouvernement est déterminé à garantir que les personnes qui conduisent avec les facultés affaiblies par l'effet d'une drogue, y compris la marijuana, seront assujetties à des dispositions législatives plus sévères.**

Si des questions sont posées au sujet de la taxation de la marijuana à des fins médicales :

- **Selon la position de l'Agence du revenu du Canada, établie de longue date, et qui a été maintenue par les tribunaux, la marijuana est taxable si elle n'est pas obtenue sur ordonnance. Il est trop tôt pour formuler des hypothèses sur l'incidence qu'un texte législatif aura sur la réglementation de la marijuana non obtenue sur ordonnance.**

CONTEXTE :

La Plate-forme de 2015 du Parti libéral proposait plus particulièrement ce qui suit :

- Retirer la consommation et la possession de marijuana du *Code criminel* (*Loi réglementant certaines drogues et autres substances*).
- Adopter des mesures législatives plus sévères pour punir les personnes qui en fournissent aux mineurs, les personnes qui conduisent un véhicule automobile sous l'effet de la drogue et les personnes qui en vendent à l'extérieur du nouveau cadre réglementaire.
- Créer un groupe de travail fédéral-provincial-territorial pour mettre en place un nouveau réseau strict de vente et de distribution de marijuana.

La ministre de la Santé et le ministre de la Sécurité publique et de la Protection civile piloteront cette initiative.

En vertu de la *Loi réglementant certaines drogues et autres substances*, le fait de posséder 30 grammes ou moins de cannabis (marijuana) ou 1 gramme de résine de cannabis (« une petite quantité de cannabis ») constitue une infraction punissable sur déclaration de culpabilité par procédure sommaire d'une peine maximale d'emprisonnement de six mois ou d'une amende maximale de 1 000 \$. La possession d'une plus grande quantité de ces substances constitue une infraction mixte punissable d'une peine maximale de cinq ans de prison moins une journée, si l'infraction était considérée comme un acte criminel (auteurs poursuivis par mise en accusation).

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Question Period Note

FEDERAL COURT DECISION IN *ALLARD V. HMQ IN RIGHT OF CANADA***ISSUE:**

Constitutional Challenge to the Marijuana For Medical Purposes Regulations

PROPOSED RESPONSE:

- The Federal Court has found the *Marijuana for Medical Purposes Regulations* are unconstitutional and has struck them in their entirety.
- The Court found that the complete prohibition on personal production for medical purposes to infringe the Charter.
- The ruling does not affect the provisions of the *Controlled Drugs and Substances Act* and does not affect the existing prohibition on the prohibition of possession, production, and trafficking of marijuana for non-medical purposes.
- The Court has suspended its decision for six months to allow the Government to create a new medical marijuana regime. In the interim, the existing injunction remains in place.
- We will review this decision carefully and consider its potential implications and next steps.
- I defer to my colleague, the Minister of Health, for further questions on the *Marijuana for Medical Purposes Regulations*.

BACKGROUND:

The *Marijuana for Medical Purposes Regulations* (MMPR) came into force in June 2013. The Regulations were intended to replace the *Marihuana Medical Access Regulations*, (MMAR), which had been amended many times since coming into force in 2001, as a result of constitutional challenges, and which had given rise to serious concerns about public health and safety issues raised by large numbers of individuals producing marijuana in dwelling houses. The transition from the MMAR to the MMPR gave rise to numerous constitutional court challenges, including *Allard et. al.*

The challenges arise because the MMPR require individuals who are authorized by a medical practitioner to use marijuana for medical purposes to purchase that marijuana from licensed producers. Home production under the MMAR proved problematic. The MMPR eliminated home production and allowed for the establishment of licensed producers. This was intended to control production and distribution of marijuana, while providing reasonable access to quality-produced marijuana for medical purposes for those who require it. Another MMPR objective was to reduce criminal diversion and public health and safety risks associated with fire and mould infestation associated with in-home marijuana cultivation.

The plaintiffs in *Allard et. al. v. Her Majesty the Queen in Right of Canada* sought to preserve their ability to grow marijuana for medical purposes and challenged the constitutionality of several elements of the MMPR: the elimination of personal production of marijuana; the limitation to possession of 150 grams of marijuana or 30 times the daily dosage; the restriction of access to dried marijuana; and the limitation to growing marijuana indoors, alleging breaches of their Section 7 *Charter* rights to liberty and security of the person.

The plaintiffs sought and obtained interlocutory relief, by Federal Court order issued 21 March 2014. This injunction order preserved until the final determination of the issues at trial, the ability of individuals with valid authorizations to possess and licenses to produce marijuana for medical purposes to continue to do so under the existing terms of their licenses and subject to a 150 gram possession cap.

After the June 2015 Supreme Court of Canada decision in *R. v. Smith*, Health Canada issued five class exemptions allowing to cannabis derivatives for individuals authorized to use marijuana for medical purposes. Canada argued in *Allard* that given access to cannabis derivatives was now possible, this aspect of the *Allard* plaintiffs challenge was rendered moot.

Over 300 unrepresented litigants have also filed claims in the Federal Court seeking to preserve their ability to produce marijuana for medical purposes; these cases have been stayed until the last appeal of *Allard* has been decided. Almost 20 similar claims have been filed and stayed under varying terms in provincial courts nationally. Finally, another constitutional challenge similar to *Allard* has been filed in the British Columbia Supreme Court (*Boivin et. al.*), and this case seeks similar relief to that sought by the *Allard* plaintiffs, but on broader Constitutional grounds.

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Question Period Note
FEDERAL COURT DECISION IN <i>ALLARD V. HMQ IN RIGHT OF CANADA</i>
ISSUE: Constitutional Challenge to the Marijuana For Medical Purposes Regulations
PROPOSED RESPONSE: <ul style="list-style-type: none">• The Federal Court has found that the complete prohibition on personal production for medical purposes infringes the Charter.• It is important to remember that this ruling is about medical marijuana only.• The ruling does not affect the existing prohibition on the possession, production, and trafficking of marijuana for non-medical purposes.• The Court has suspended its decision for six months to allow the Government to create a new medical marijuana regime. In the interim, the existing injunction remains in place.• We will review this decision carefully and consider its potential implications and next steps.• I defer to my colleague, the Minister of Health, for further questions on the <i>Marijuana for Medical Purposes Regulations</i>.



BACKGROUND:

The *Marijuana for Medical Purposes Regulations* (MMPR) came into force in June 2013. The Regulations were intended to replace the *Marihuana Medical Access Regulations*, (MMAR), which had been amended many times since coming into force in 2001, as a result of constitutional challenges, and which had given rise to serious concerns about public health and safety issues raised by large numbers of individuals producing marijuana in dwelling houses. The transition from the MMAR to the MMPR gave rise to numerous constitutional court challenges, including *Allard et. al.*

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Department of Justice
Canada

Ministère de la Justice
Canada

s.21(1)(a)

FOR APPROVAL

NUMERO DU DOSSIER/FILE #: 2016-004812

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Responsable dans l'équipe du SM/Lead in the DM Team:

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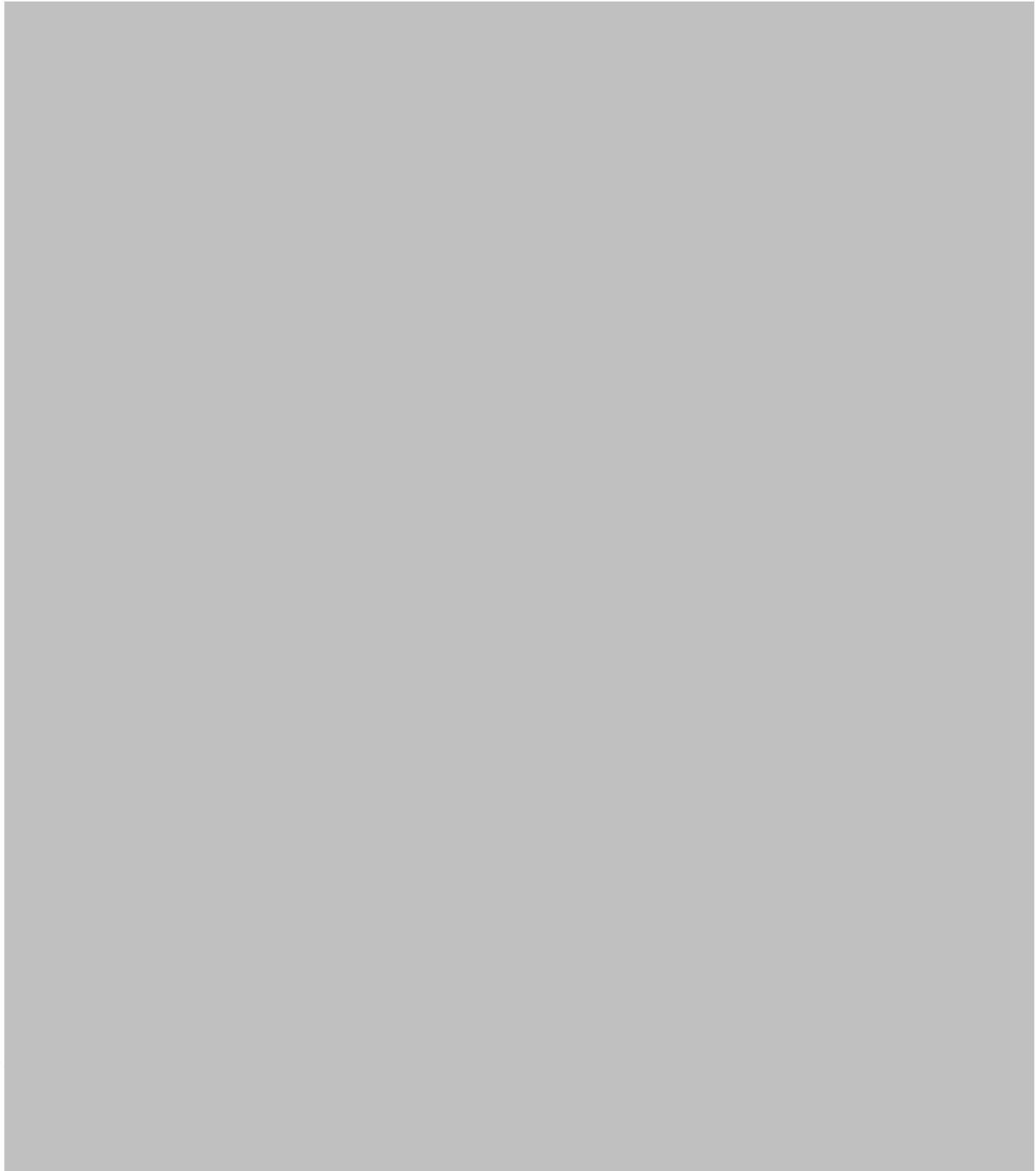
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Canada

s.21(1)(a)

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MEMORANDUM FOR THE MINISTER



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s.21(1)(a)



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- ☐ **I CONCUR.**
- ☐ **I DO NOT CONCUR.**
- ☐ **OTHER INSTRUCTIONS:**

The Honourable Jody Wilson-Raybould

Date

**Pages 61 to / à 64
are withheld pursuant to sections
sont retenues en vertu des articles**

14, 21(1)(a), 21(1)(b)

**of the Access to Information Act
de la Loi sur l'accès à l'information**